

Before the  
**FEDERAL COMMUNICATIONS COMMISSION**  
Washington, DC 20554

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In the Matter of	)	
Implementation of Section 621(a)(1) of	)	
the Cable Communications Policy Act of 1984	)	MB Docket No. 05-311
as amended by the Cable Television Consumer	)	
Protection and Competition Act of 1992	)	

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**COMMENTS OF THE STATE COLLEGE BOROUGH**

These Comments are filed by the State College Borough, Centre County, Pennsylvania in support of the comments filed by the National Association of Telecommunications Officers and Advisors ("NATOA"). Like NATOA, the State College Borough believes that local governments can issue an appropriate local franchise for new entrants into the video services field on a timely basis, just as they have for established cable services providers. In support of this belief, we wish to inform the Commission about the facts of video franchising in our community.

The Federal Cable Act refers to this as a "franchise" so we will use that term in these comments. Also, many communities have a cable ordinance which operates in conjunction with the franchise agreement, the terms of which are often negotiated with the cable company in conjunction with the franchise agreement. These documents collectively referred to as the "franchise" below.

**Cable Franchising in Our Community**

**Community Information**

The State College Borough is a Home Rule Borough with a population of nearly 39,311. Our franchised cable providers are Adelphia Communications Corporation and D&E Communications. Our community has negotiated cable franchises since at least 1978.

**Our Current Franchise**

Our current franchise began in 1988 and expired in 2003. Under the statutory timeline laid out in the Federal Cable Act, the cable operator has a 6-month window beginning 36 months before the expiration of the franchise in which to request a renewal under the Federal Act. As a result, at this time we are currently negotiating a franchise renewal with the incumbent provider.

Our franchise requires the cable operator to pay a franchise fee to the Borough of State College in the amount of 5% of the cable operator's revenues. The revenues for franchise fee

purposes are calculated based on the gross revenues of the operator, in accordance with the Federal Cable Act.

### **The Franchising Process**

The cable system(s) serving our community also serves many adjoining communities: College Township, Ferguson Township, Halfmoon Township, Bellefonte Borough, Harris Township, Spring Township and other parts of Centre County. In 2005 our community worked together with approximately six other communities to begin working on a cable franchise agreement with Adelphia. Due to bankruptcy issues, the process is continuing. This cooperative arrangement will allow Adelphia to quickly obtain franchises in these communities so as to be able to serve a large region, while also allowing for individual provisions in specific franchises in order to tailor them to meet local needs.

Under the law, a cable franchise functions as a contract between the local government (operating as the local franchising authority) and the cable operator. Like other contracts, its terms are negotiated. Under the Federal Cable Act it is the statutory obligation of the local government to determine the community's cable-related needs and interests and to ensure that these are addressed in the franchising process – to the extent that is economically feasible. However derived (whether requested by the local government or offered by the cable operator), once the franchise is approved by both parties the provisions in the franchise agreement function as contractual obligations upon both parties. In State College, Pennsylvania, two franchises have been awarded by the Borough Council. The second entrant into this market, D&E Communications, was able to effectively negotiate a franchise agreement with the Borough and begin serving this community with undue restrictions or a cumbersome franchising process.

While a franchise is negotiated by the local government as a contract, the process provides the cable operator additional due process rights, and consequent additional obligations on the local government. For instance:

### **Conclusions**

The local cable franchising process functions well in the State College Borough. As the above information indicates, we are experienced at working with cable providers to both see that the needs of the local community are met and to ensure that the practical business needs of cable providers are taken into account.

Local cable franchising authority has not been an impediment to entry in this market. The Borough of State College currently has awarded two cable franchises in our community. The franchising process which resulted in the award of a second franchise to D&E Communications was not a lengthy or difficult process for either party. Both D&E Communications and Adelphia are able to compete effectively in State College under locally awarded franchises.

Local cable franchising ensures that local cable operators are allowed access to the rights of way in a fair and evenhanded manner, that other users of the rights of way are not unduly inconvenienced, and that uses of the rights of way, including maintenance and upgrade of

facilities, are undertaken in a manner which is in accordance with local requirements. Local cable franchising also ensures that our local community's specific needs are met and that local customers are protected.

Local franchises thus provide a means for local government to appropriately oversee the operations of cable service providers in the public interest, and to ensure compliance with applicable laws. There is no need to create a new Federal bureaucracy in Washington to handle matters of specifically local interest.

Finally, local franchises allow each community, including ours, to have a voice in how local cable systems will be implemented and what features (such as PEG access, institutional networks or local emergency alerts, etc.) will be available to meet local needs. These factors are equally present for new entrants as for existing users.

The State College Borough therefore respectfully requests that the Commission do nothing to interfere with local government authority over franchising or to otherwise impair the operation of the local franchising process as set forth under existing Federal law with regard to either existing cable service providers or new entrants.

Respectfully submitted,

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